

AMELIA M. TAYMAN

vs.

LEVI L. TAYMAN.

} MARCH TERM, 1851.

[DIVORCE A MENSA ET THORO—ALIMONY, PENDENTE LITE.]

THERE can be no doubt of the power of this court, pending a bill for a divorce by a wife, to compel the husband to pay her temporary alimony, and also to furnish her with the means of defraying the expenses of the suit; and that upon such an application by the wife, living apart from her husband, and without means, the merits will not be looked into, the allowance being made almost, if not entirely, as a matter of course.

If the wife be living with her husband, an allowance of alimony, *pendente lite*, would be unnecessary and improper, but it does not follow, that under such circumstances, upon an application by her, the husband would not be made to supply her with money, to fee counsel and defray the expense of the suit. The application must be made by the wife, and not by the counsel in his own name.

The terms "cruelty of treatment," in the 3d section of the act of 1841, ch. 262, are to be construed as having the same meaning as that attributed to them by the ecclesiastical courts in England, and which has been given to equivalent language in the New York statute.

Upon granting a divorce *a mensa et thoro*, the act of 1841, ch. 262, requires the property of the wife which she had at the time of her marriage, or such portions thereof as remain undisposed of, to be delivered up to her.

[The bill in this case was filed on the 9th of September, 1850, by Amelia M. Tayman of Anne Arundel County, against her husband, Levi S. Tayman, for a divorce. It alleges her marriage with the defendant some time in the year 1849, and that since that time she has resided with, and demeaned herself towards him as a chaste, loving and obedient wife. That shortly after her marriage, the habits of her husband become greatly changed, and particularly his behavior towards your oratrix. Instead of the sober and affectionate person she supposed him to be at the time of her marriage, he became excessively dissipated, and began to treat your oratrix in a most cruel and forbidden manner. That, notwithstanding, she bore his treatment with meek and quiet submission, hoping thereby, and by a constant devotion to his welfare, to reclaim him from his vicious